

FILED

NOV 18 2003

Judge David H. Coar
United States District Court

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

DAN DURAN, et al.,

Plaintiffs,

v.

MICHAEL F. SHEAHAN, Sheriff of
Cook County, et al.,

Defendants.

No. 74 C 2949

Judge George M. Marovich

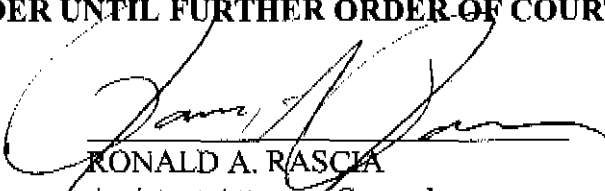
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NOV 20 2003

EMERGENCY NOTICE OF MOTION

To: See Attached Service List

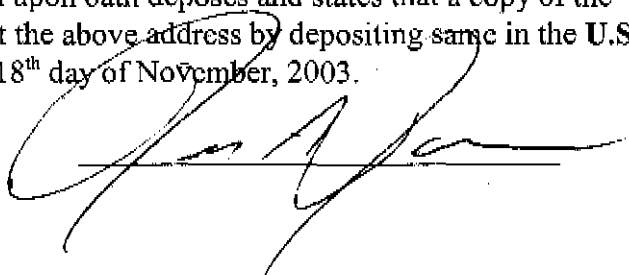
PLEASE TAKE NOTICE that on Wednesday, November 19, 2003 at 9:00 a.m., the Illinois Department of Corrections will present, before the Honorable David H. Coar as Emergency Judge sitting for Judge George M. Marovich in Courtroom 1419 in the U.S. District Court, 219 S. Dearborn St., Chicago, Illinois 60604, the attached **ILLINOIS DEPARTMENT OF CORRECTIONS MOTION TO VACATE NOVEMBER 13, 2003 AGREED ORDER OR ALTERNATIVELY STAY SAID ORDER UNTIL FURTHER ORDER OF COURT.**

LISA MADIGAN
Attorney General of Illinois


RONALD A. RASCIA
Assistant Attorney General
General Law Bureau
100 W. Randolph St., 13th Fl.
Chicago, Illinois 60601
(312) 814-3647

CERTIFICATE OF SERVICE

The undersigned being first duly sworn upon oath deposes and states that a copy of the foregoing was served upon the above named at the above address by depositing same in the U.S. Mail as well as facsimile transmission on the 18th day of November, 2003.



849

SERVICE LIST

1. Donald J. Pechous
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4. Paul O'Grady Esq.
c/o Sheriff Cook County
500 Richard J. Daley Center
Chicago, Illinois 60602

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**EMERGENCY MOTION TO VACATE ORDER ENTERED
NOVEMBER 13, 2003 MODIFYING THE CONSENT DECREE
OR IN THE ALTERNATIVE STAY OR MODIFY THE ORDER**

NOW COMES the Illinois Department of Corrections (hereinafter "IDOC") by and through its attorney, LISA MADIGAN, Attorney General of the State of Illinois, and moves this Honorable Court for an order vacating the order entered November 13, 2003 or in the alternative stay or modify said order. In support, movant states as follows:

1. On November 14, 2003 at approximately 4:30 p.m. Chief Legal Counsel for IDOC was advised that the Sheriff of Cook County was intending to transport several inmates to Stateville Correctional Center immediately pursuant to a Court
2. The information made reference to a Court order but did not include the judges name, case caption or circumstances of the order.
3. The Illinois Department of Corrections is not and has never been a party to the instant litigation.
4. That the Illinois Department of Corrections had no notice of any proceeding in

which an order having serious effect upon the Department was being presented and entered.

5. At approximately 4:45 p.m. on November 14, 2003 the Department of Corrections Legal Department sought information from Judge Biebel the presiding Judge of the Criminal Division of Cook County.

6. Judge Biebel was not in chambers and Judge Toomin, sitting in his stead had no knowledge of any order.

7. It was ultimately discerned that Judge Marovich, in the instant case, entered the order attached as Exhibit 1.

8. The order, which impacts the IDOC (See Affidavit of Robert Patterson marked as Exhibit 2) was entered without any input or notice to IDOC.

9. The detrimental impact upon IDOC of this order at this time is illustrated by the affidavit attached. (See Patterson Affidavit).

10. At Paragraph 5 of the Joint Motion presented to the Court (Docketed 11/14/03) the Court was advised that the sheriff would undertake transportation responsibility of certain inmates. The order as entered is in variance because it orders IDOC to transport. (Marked as Exhibit 3).

11. This matter was the subject of an emergency telephonic stay order on 11/14/03 which extended until 11/17/03. (See Exhibit 4).

12. The current court order appears to allow the Cook County Sheriff the discretion to transfer approximately 1,300 parole violation inmates to IDOC.

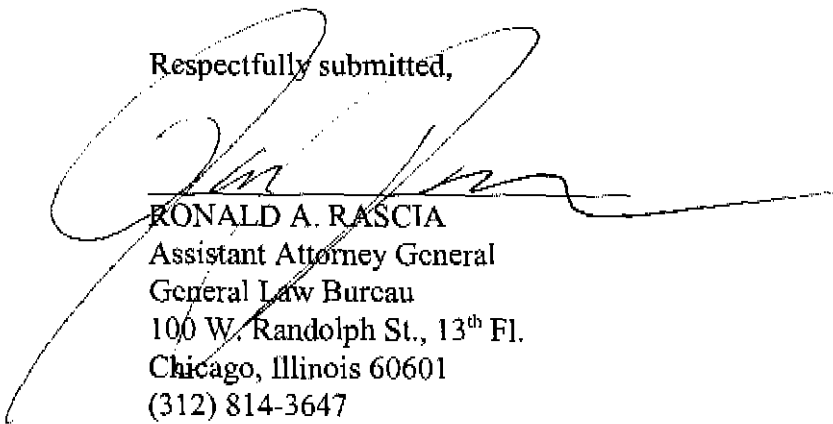
13. The wholesale transfer of this many inmates to IDOC would jeopardize the orderly process of intake and assignment of inmates at IDOC.

14. IDOC seeks a short stay by the other to allow for informed discussion and planning with the Cook County Sheriff.
15. Initial discussion on this matter commenced on 11/17/03 between Chief Counsel Diann Marsalek and representatives of the Cook County Sheriffs Office.
16. Upon information and belief the daily information transmitted from the Sheriff to IDOC has been suspended since approximately February of 2003 according to a representative of the IDOC.
17. Within the initial shipment of inmates during the last two days, 29 inmates have open writs to appear in the Circuit Court of Cook County.
18. The orderly operation of the criminal court building at 26th and California Ave. will be compromised by the constant shipment of inmates between the IDOC and the Cook County Jail.

WHEREFORE, the Illinois Department of Corrections prays this Honorable Court enter an order either vacating or staying the 11/13/03 order until further order of court or for other such relief as the court deems equitable and justifiable.

LISA MADIGAN
Attorney General of Illinois

Respectfully submitted,



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See Case
File For
Exhibits